

## **REMARKS**

Applicant would like to thank the Examiner for the careful consideration given the present application. The application has been carefully reviewed in light of the Office action, and amended as necessary to more clearly and particularly describe the subject matter which applicant regards as the invention.

In the outstanding Office Action, the Examiner had confirmed the applicants' election of Group I, Figs. 1-5. In this response the applicants indicated that at least claims 1-13 and 29-30 read on the invention illustrated in Figs. 1-5, and that at least claims 1-2 and 29-30 are generic to all of the species identified by the Examiner. The applicants had pointed out that, upon allowance of a generic claim, the applicants will be given the opportunity to have claims directed toward the non-elected species examined. The Examiner was asked to confirm this understanding. However, the Examiner has not confirmed or otherwise acknowledged this in the outstanding Office Action. It is respectfully requested that the Examiner either confirm this or provide an explanation as to why this understanding is incorrect.

In the Office action the Examiner states that:

*Because Applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse.*

However, the applicants had previously pointed out that Group IV, Fig. 10 is not truly a separate species of invention, but rather illustrates a structure for connecting a tongue from a second cart to a hitch of a first cart. This structure may be used in conjunction with any of the retractable tongue locking systems of the present invention,

which are illustrated in Figs. 1-9. It is respectfully requested that the Examiner acknowledge this argument and either explain why this species is properly restricted, or else withdraw the restriction as applied to Group IV.

As is recited in the present claims and disclosed in the present specification, the present invention is directed to a cart for transporting objects, the cart having a base structure upon which the objects may be disposed. The base structure has posterior and anterior ends and opposing first and second sides. A pair of first wheels are mounted to the base structure and disposed toward a first side of the base structure. A pair of second wheels are mounted to the base structure and disposed toward a second side of the base structure. A housing is mounted to the base structure and at least partially defines an interior channel. The housing extends in a longitudinal direction of the cart and is disposed midway along a width of the cart.

It should be carefully noted that the present invention includes an elongated tongue adapted for connection to another cart. The tongue is at least partially disposed in the channel and is movable between a retracted position, wherein a majority of the tongue is disposed inside the channel, and an extended position, wherein a majority of the tongue is disposed outside the channel. The present invention also includes an actuator, connected to the tongue and disposed laterally outward from the housing. The actuator is operable, upon engagement and manipulation by an operator, to move the tongue from the retracted position to the extended position. This is very different from the prior art relied upon by the Examiner.

Claims 1-13 and 29 stand rejected under Section 102(e) as being anticipated by US 4,887,836 to Simjian.

Simjian is directed to a type of cart with foldable side panels, especially used for easily transporting groceries or the like from an automobile to the inside of a house or apartment, and adapted to be carried in a trunk or the passenger compartment of an automobile by virtue of its foldable side panels. (See col. 1, lines 28-34). Simjian shows a basic cart design, including a basket area and wheels. Simjian shows a handle 42 that is received within a channel 44 secured beneath a frame 22, and movable between a retracted stowage position and an extended position. Movement of the handle 42 from the stowage position to the extended position results in the foldable side panels moving from a folded position to an erected position. (See, e.g. col. 3, lines 1-13.)

It is also shown in Simjian that a push block 58 is attached to the handle 42, and is maintained in a position under the cart where it cannot be contacted by the user. When the handle 42 is pulled, the push block 58 displaces a push pin 66, which drives a crank arm 50 and moves a gear linkage so as to erect the side panels 12, 14 on the cart. In this way, it is clear that it is the handle 42 that must be engaged by a user, and that there is no way that the push block 58 can be engaged or manipulated by the user. It is further noted that movement of the push block 58 is effected by pulling on the handle.

Initially, it is noted that the Simjian handle 42 cannot be construed as an "elongated tongue adapted for connection to another cart." There is no disclosure or suggestion in Simjian of attaching the handle 42 to another cart, and no structure that would enable the Simjian cart to be attached to another cart.

Further to the above, it is clear from the disclosure that Simjian's push block 58

is simply an internal component connected to the handle 42 for driving a linkage to raise the side panels 12, 14. More specifically, the push block 58 is an intermediate component that is moved by pulling of the handle 42 so as to displace or actuate other components. Therefore, there is no way that the push block 58 could be considered an "actuator," as recited in the present claim 1.

Further, the push block 58 is located underneath the cart, far removed from any position where a user may easily gain access. Therefore, the push block is not "an actuator connected to the tongue and *disposed laterally outward from the housing at a position that is accessible for an operator*"(emphasis added), as required by claim 1. It is considered apparent that the Simjian push block is entirely disposed beneath the base surface of the cart, and is not accessible for engagement by the user.

Accordingly, it is respectfully submitted that the grocery cart of Simjian does not provide the structural features of the present invention as defined in claim 1. Reconsideration and withdrawal of the rejection of claims 1 based upon Simjian is hereby requested.

Claims 2-13 and 29 depend from claim 1, and are likewise considered to be allowable over Simjian. However, the dependent claims are also believed to be independently patentable over this reference.

In connection with claim 2, it is clear from the disclosure of Simjian that the handle 42 moves the push block 58, not the other way around. It is considered clear that the push block is not disposed in a location in which user engagement and manipulation is contemplated. In fact, if the push block could be moved by the operator, it would require a very large force to displace the handle, due to the gear ratios and leverages that would be encountered. It is believed that such an

arrangement would be inoperable. Therefore, it is respectfully submitted that Simjian's push block cannot meet the requirement of "movement of the actuator from the deactivated position to the activated position moves the tongue from the retracted position to the extended position," as recited in claim 2.

In connection with claim 5, even if Simjian's push block 58 could somehow be considered an "actuator" as proposed by the Examiner, there is clearly no suggestion of an "elongated extension rod ... extending laterally outward from the tongue", as required by claim 5, while keeping in mind that the actuator defined in claim 1 is disposed laterally outward from the housing and channel. Simjian's push block 58 is connected with "spacers 61" that extend laterally a short distance from the handle 42 to a position for engagement with the push pins. Thus, it is considered clear that the spacers 61 do not provide the structural features of the claimed extension rod. Therefore, claim 5 is considered to be independently patentable over Simjian.

Additionally, claim 8 requires that the "the actuator is a foot plate having a planar contact surface disposed perpendicular to the longitudinal direction of the cart." Clearly, there is no structure whatsoever in the four corners of Simjian that could be construed as meeting this limitation. Claims 9-11 depend from claim 8, and recite further features of the foot plate. It is considered clear that the features of claims 8-11 are not taught by Simjian.

Claim 12 defines that the actuator is disposed laterally outboard of the base structure. Clearly, Simjian does not teach an actuator disposed in such a position.

Similarly, claim 13 defines that the actuator is vertically aligned with the base structure. As noted hereinbefore, Simjian does not teach an actuator disposed in such

a position.

In view of the above, it is respectfully requested that the Examiner cite the portion(s) of Simjian relied upon to show the herein-rejected claim limitations, otherwise, kindly withdraw these grounds of rejection.

In the outstanding Election/Restriction requirement, it is noted that the withdrawn, non-elected claims 14-19 ultimately depend from claim 5, and withdrawn, non-elected claims 20-28 depend from claim 2. It has been shown above that claims 2 and 5 distinguish over the prior art. It is respectfully submitted that these withdrawn claims depend from associated allowable claims, and are therefore themselves allowable for at least these same reasons. It is therefore respectfully requested that the Election/Restriction requirement against claims 14-28 be withdrawn, and rejoinder and allowance of these claims be indicated.

It is further noted that claim 31 includes all of the features of claim 1, and further defines a hitch apparatus that is incorporated into the cart. Accordingly, it is respectfully submitted that, upon allowance of claim 1, claim 31 and claims 32-46 that depend therefrom, should also be allowed.

In light of the foregoing, it is respectfully submitted that the present application is in a condition for allowance and notice to that effect is hereby requested. If it is determined that the application is not in a condition for allowance, the Examiner is invited to initiate a telephone interview with the undersigned to expedite prosecution of the present application.

If there are any additional fees resulting from this communication, please charge same to our Deposit Account No. 18-0160, our Order No. HON-15052.

Respectfully submitted,

RANKIN, HILL, PORTER & CLARK LLP

By   
David E. Spaw, Reg. No. 34732

4080 Erie Street  
Willoughby, Ohio 44094-7836  
(216) 566-9700